

**OCT 18 2005**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

XIAOYAN BA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-73198

Agency No. A95-179-320

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted October 11, 2005<sup>\*\*</sup>

Before: HALL, T.G. NELSON, and TALLMAN, Circuit Judges.

Xiaoyan Ba, a native and citizen of China, petitions for review of the Board of Immigration Appeals' summary affirmance without opinion of an Immigration Judge's ("IJ") order denying her applications for asylum, withholding of removal

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review the IJ’s decision for substantial evidence, *Ramos-Vasquez v. INS*, 57 F.3d 857, 861 (9th Cir. 1995), and we deny the petition for review.

The “sum total” of the inconsistencies within Ba’s testimony, and between her testimony and written statement, regarding her practice of Falun Gong, provide substantial evidence to support the BIA’s adverse credibility finding. *Pal v. INS*, 204 F.3d 935, 940 (9th Cir. 2000). Moreover, we give special deference to the IJ’s demeanor finding. *Singh-Kaur v. INS*, 183 F.3d 114, 1151 (9th Cir. 1999) (IJ is in the position to observe the testimony of many petitioners).

In the absence of credible testimony, Ba failed to demonstrate eligibility for asylum, withholding of removal or relief under the CAT. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED.**